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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,001	11/14/2003	Michiko Matsumoto	2003-1649A	8383

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EXAMINER

MISIURA, BRIAN THOMAS

ART UNIT PAPER NUMBER

2112

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,001	<b>Applicant(s)</b> MATSUMOTO ET AL.	
	<b>Examiner</b> Brian T. Misiura	<b>Art Unit</b> 2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☒ Claim(s) 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11-14-2003</u> . | 6) <input type="checkbox"/> Other: _____  |

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**Detailed Action**

**Quayle Action**

1. This application is in condition for allowance except for the following formal matters:

***Specification***

2. The disclosure is objected to because of the following informalities: page 4 [0062], "The application executing apparatus 2 reads an application program *onto* a memory, and the read application program is executed by the CPU". The phrase "*onto* a memory" is the means for the objection.

Examiner suggests: "The application executing apparatus 2 reads an application program *from* a memory, and the read application program is executed by the CPU".

Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

3. Claims 20-21 are directed to non-statutory intangible embodiments. In view of Applicant's disclosure, page 17 claims 20-21, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., [ROM, RAM, magnetic disk storage media, optical storage media, flash memory devices]) and intangible embodiments (e.g., [electrical, optical, acoustical, carrier

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waves, infrared signals, digital signals]). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Per claim 20, examiner suggests that applicant should amend the claim to read as follows:

"A contention arbitration program, *stored in a memory*, for causing....."

Per claim 21, examiner suggests that applicant should amend the claim to read as follows:

".... when a plurality of application programs, *stored in a memory*, simultaneously attempt....".

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

***Allowable Subject Matter***

4. Claims 1-19 are allowed.

5. Referring to claims 1, 20-21: The prior arts on record does not disclose the device information storing section for storing device information which indicates a correspondence between a logic device, which defines functions specified by said at

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least one application program which attempts to access said at least one physical device, and said at least one resource which defines functions required for implementing functions defined by the logic device; and the used resource recognizing section for recognizing a resource associated with the logic device specified by said at least one application program by reference to the device information.

Referring to claims 2-19: Claims are allowable because they incorporate the parent claims' allowable subject matter.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

7. This application is in condition for allowance except for the following formal matters:

- Applicant needs to amend the rejected claims, 20 and 21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Misiura whose telephone number is (571) 272-0889. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on (571)272-3676. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tim Vo', with a long, sweeping horizontal stroke extending to the left.

**TIM VO**  
**PRIMARY EXAMINER**

BTM